

# **HIPAA Privacy Rule Checklists Section 164.532 – Transition Provisions**

**Prepared by the  
NCHICA Consent and Patients Rights Work Group  
Privacy and Confidentiality Focus Group**

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## HIPAA Privacy Rule Checklists Section 164.532 – Transition Provisions

### I. Prior Consents and Authorizations

- a. A covered entity may continue to use or disclose protected health information pursuant to a consent, authorization, or other express legal permission (hereinafter, “legal permission”) obtained from an individual permitting the use or disclosure of protected health information that does not comply with §§ 164.506 or 164.508, consistent with the requirements below:
- i. \_\_\_\_ The following provisions apply to use or disclosure by a covered entity of protected health information pursuant to legal permission obtained from an individual permitting the use or disclosure of protected health information, if the legal permission was obtained from an individual before the applicable compliance date.
  - ii. \_\_\_\_ If the legal permission permits a use or disclosure for purposes of carrying out treatment, payment, or health care operations, the covered entity may, with respect to protected health information that it created or received before the applicable compliance date and to which the legal permission applies, use or disclose such information for purposes of carrying out treatment, payment, or health care operations, *provided that*:
    - \_\_\_\_ The covered entity does not make any use or disclosure that is expressly excluded from the legal permission; *and*
    - \_\_\_\_ The covered entity complies with all limitations placed by the legal permission.
  - iii. \_\_\_\_ If the legal permission specifically permits a use or disclosure for a purpose other than to carry out treatment, payment, or health care operations, the covered entity may, with respect to protected health information that it created or received before the applicable compliance date and to which the legal permission applies, make such use or disclosure, *provided that*:
    - \_\_\_\_ The covered entity does not make any use or disclosure that is expressly included from the legal permission; *and*
    - \_\_\_\_ The covered entity complies with all limitations placed by the legal permission.
  - iv. \_\_\_\_ In the case of legal permission that identifies a specific research project that includes treatment of individuals, the following apply:
    - \_\_\_\_ If the legal permission specifically permits a use or disclosure for purposes of the project, the covered entity may, with respect to protected health information that it created or received before/after the applicable compliance date and to which the legal permission applies, make such use or disclosure for purposes of that project, provided that the covered entity complies with all limitations placed by the legal permission; *or*
    - \_\_\_\_ If the legal permission is a general consent to participate in the project, and a covered entity is conducting or participating in the research, such covered entity may, with respect to protected

health information that it created as part of the project before/after the applicable compliance date, make a use or disclosure for purposes of that project, provided that the covered entity complies with all limitations placed by the legal consent.

- v. \_\_\_\_\_ If, after the applicable compliance date, a covered entity agrees to a restriction requested by an individual under § 164.522(a), a subsequent use or disclosure of protected health information that is subject to the restriction based on a legal permission must comply with such restriction.